

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2016

CORAM:

The Hon'ble Mr.Justice K.K.Sasidharan

Transfer CMP No.25 of 2011
and
M.P.Nos. 1 and 2 of 2011

K.Mohan

...Petitioner

versus

1. Mr.V.Kesavan
2. Mr.R.Sundaramurthy
3. Mr.R.Neelakandan
4. Mr.B.Anil Gandhi
5. Deepak Bohra
6. V.Selvamuthukumaran

...Respondents

PRAYER:

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in O.S.No.357 of 2010, now pending on the file of the District and Sessions Court, No.II, Kancheepuram, and transfer the same to the file of the Principal District Court, Chengalpattu to have joint trial along with pending suit, viz., O.S.No.251 of 2009.

For Petitioner : Mr.M.S.Mani

For Respondent-5 : Mr.V.Manohar

ORDER

The plaintiff in O.S.No.251 of 2009, on the file of the Principal District Court, Chengalpattu, is the petitioner, in this Transfer Petition.

2. The petitioner filed the Suit in O.S.No.251 of 2009, before the Principal District Court, Chengalpattu, praying for a decree of partition. The fifth respondent filed O.S.No.357 of 2010, before the District and Sessions Court, Kancheepuram, praying for a decree of specific performance of Contract. Since the property in both the Suits are one and the same, the petitioner has come up with this Petition for transfer.

3. Heard the learned counsel appearing on behalf of the petitioner and the learned counsel for the fifth respondent.

4. There are two Suits pending before two different Courts with respect to the very same property. The petitioner seeks a decree of partition and separate possession of his share in the Suit in O.S.No.251 of

2009, before the Principal District Court, Chengalpattu. The fifth respondent, on the other hand, seeks a decree of specific performance of an agreement of sale.

5. Since the property in both the Suits are one and the same and the parties are also the same, necessarily, the subsequent Suit requires to be transferred to the Court, where, the Suit originally filed is pending. I am, therefore, of the view that the Transfer Petition deserves to be allowed.

6. The Civil Suit, in O.S.No.357 of 2010, is withdrawn from the file of the District and Sessions Court No.II, Kancheepuram, and is transferred to the file of the Principal District Court, Chengalpattu, for disposal along with O.S.No.251 of 2009. The learned Principal District Judge, Chengalpattu is directed to take up both the matters simultaneously and dispose of the same on merits, as per law.

7. The Transfer Petition is allowed, as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Index:Yes/No
sd

23.11.2016

K.K.Sasidharan, J.

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To

- 1.The District and Sessions Court No.II,
Kancheepuram.
2. The Principal District Court,
Chengalpattu,

Transfer CMP No.25 of 2011

23.11.2016

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